



Senate

General Assembly

File No. 482

January Session, 2001

Substitute Senate Bill No. 1403

Senate, April 26, 2001

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ADMISSIBILITY OF EVIDENCE OF STOLEN VEHICLES AND SEIZED CURRENCY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Subsection (b) of section 54-36a of the general statutes is repealed
2 and the following is substituted in lieu thereof:

3 (b) (1) Whenever property is seized in connection with a criminal
4 arrest or seized pursuant to a search warrant without an arrest, the law
5 enforcement agency seizing such property shall file, on forms
6 provided for this purpose by the Office of the Chief Court
7 Administrator, an inventory of the property seized. The inventory,
8 together with the uniform arrest report, in the case of an arrest, shall be
9 filed with the clerk of the court for the geographical area in which the
10 criminal offense is alleged to have been committed; except, when the
11 property is stolen property and, in the opinion of the law enforcement
12 officer, does not exceed two hundred fifty dollars in value, or when an
13 attempt was made to steal the property but the property at all times

14 remained on the premises in a sealed container, the filing of an
15 inventory shall not be required and such property may be returned to
16 the owner. In the case of property seized in connection with a search
17 warrant without an arrest, the inventory shall be attached to the
18 warrant and shall be filed with the clerk of the court for the
19 geographical area in which the search warrant was issued. If any
20 criminal proceeding is transferred to another court location, then the
21 clerk with whom the inventory is filed shall transfer such inventory to
22 the clerk of the court location to which such action is transferred.

23 (2) If the seized property is stolen property, within ten days of the
24 seizure, the law enforcement agency seizing the property shall notify
25 the owner of the property if known, or, if the owner of the property is
26 unknown at the time of seizure, such agency shall within ten days of
27 any subsequent ascertainment of the owner notify such owner, and, on
28 a form prescribed by the Office of the Chief Court Administrator,
29 advise the owner of [his] such owner's rights concerning the property
30 and the location of the property. Such written notice shall include a
31 request form for the return of the property. The owner may request the
32 return of the property by filing such request form with such law
33 enforcement agency, and upon receipt of such request, the law
34 enforcement agency shall forward it to the clerk of the court for the
35 geographical area in which the criminal offense is alleged to have been
36 committed. The clerk of the court shall notify the defendant or
37 defendants of the request to return the property. The court shall order
38 the return of the property within thirty days of the date of filing such
39 return request by the owner, except that for good cause shown, the
40 court may order retention of the property for a period to be
41 determined by the court. Any secondary evidence of the identity,
42 description or value of such property shall be admissible in evidence
43 against such defendant in the trial of such case. The fact that the
44 evidence is secondary in nature may be shown to affect the weight of
45 such evidence, but not to affect its admissibility. If the stolen property
46 is a motor vehicle, a photograph of the motor vehicle and a sworn

47 affidavit attesting to the vehicle identification number of such motor
48 vehicle shall be sufficient evidence of the identity of the motor vehicle.
49 For the purposes of this subdivision, "motor vehicle" means a
50 passenger or commercial motor vehicle or a motorcycle, as defined in
51 section 14-1, and includes construction equipment, agricultural tractors
52 and farm implements.

53 [(3) If the seized property is currency, the law enforcement agency
54 seizing the property may deposit the currency in a safe deposit box in
55 a financial institution in this state. No funds may be removed from
56 such safe deposit box unless ordered by the court. The financial
57 institution at which the safe deposit box is located shall not be
58 responsible for monitoring activity in the safe deposit box or insuring
59 that the contents of the safe deposit box are removed in accordance
60 with the requirements of this subdivision.]

61 (3) (A) If the seized property is currency and is stolen property, the
62 law enforcement agency seizing the currency shall follow the
63 procedures set forth in subdivision (2) of this subsection.

64 (B) If the seized property is currency and is not stolen property, the
65 law enforcement agency seizing the currency shall, within ten days of
66 such seizure, notify the defendant or defendants, if such currency was
67 seized in connection with a criminal arrest, or the person or persons
68 having a possessory interest in the premises from which such currency
69 was seized, if such currency was seized pursuant to a search warrant
70 without an arrest, that such defendant or person has the right to a
71 hearing before the Superior Court on the disposition of the currency.
72 Such defendant or person may, not later than thirty days after
73 receiving such notice, request a hearing before the Superior Court. The
74 court may, after any such hearing, order that the law enforcement
75 agency, after taking reasonable measures to preserve the evidentiary
76 value of the currency, deposit the currency in a deposit account in the
77 name of the law enforcement agency as custodian for evidentiary

78 funds at a financial institution in this state or order, for good cause
79 shown, that the currency be retained for a period to be determined by
80 the court. If such defendant or person does not request a hearing, the
81 law enforcement agency may, after taking reasonable measures to
82 preserve the evidentiary value of the currency, deposit the currency in
83 a deposit account in the name of the law enforcement agency as
84 custodian for evidentiary funds at a financial institution in this state.

85 (C) If the currency is deposited in a deposit account at a financial
86 institution in this state pursuant to subparagraph (B) of this
87 subdivision, the financial institution at which such deposit account is
88 established shall not be required to segregate the currency deposited in
89 such deposit account. No funds may be withdrawn from such deposit
90 account except pursuant to a court order directed to the financial
91 institution. Any withdrawal of funds from such deposit account shall
92 be in the form of a check issued by the financial institution to the law
93 enforcement agency or to such other payee as the court may order.
94 Nothing in this subdivision shall prohibit a financial institution from
95 charging a fee for the maintenance and administration of such deposit
96 account and for the review of the court order.

97 (D) If the currency is deposited in a deposit account at a financial
98 institution in this state pursuant to subparagraph (B) of this
99 subdivision, any secondary evidence of the identity, description or
100 value of such currency shall be admissible in evidence against a
101 defendant in the trial of a criminal offense. The fact that the evidence is
102 secondary in nature may be shown to affect the weight of such
103 evidence, but not to affect its admissibility.

PS *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Significant Savings

Affected Agencies: Department of Public Safety,
Judicial Department

Municipal Impact: Indeterminate Savings

Explanation**State Impact:**

The bill results in significant savings to the Department of Public Safety. The bill allows a picture of a stolen motor vehicle to be used as evidence in court proceedings. This reduces the costs for storage and liability for damage to the impounded vehicle. The bill results in significant savings to the state, in excess of \$100,000.

The bill would also result in additional hearings before the court. It is anticipated that this workload can be accommodated within existing budgetary resources.

Municipal Impact:

Allowing pictures of stolen vehicles to be used as evidence in court proceedings would result in indeterminate savings to municipalities with organized police departments. The number of stolen vehicles in storage determines the savings for each municipality. In addition,

minimal savings result from eliminating the requirement that seized cash be deposited in a safe deposit box.

OLR BILL ANALYSIS

sSB 1403

***AN ACT CONCERNING ADMISSIBILITY OF EVIDENCE OF
STOLEN VEHICLES AND SEIZED CURRENCY.*****SUMMARY:**

This bill eliminates law enforcement agencies' authority to deposit seized cash in a safe deposit box in a state bank. Instead, it requires them to keep or return seized, stolen cash, following existing procedures governing seized property, and it creates a procedure for keeping, banking, or returning seized cash that was not stolen. (The bill does not include any provision for banking seized, stolen cash.)

The bill applies the same trial rules to the cash that currently apply to seized, stolen property returned to its property owner. Under these rules (1) courts must admit the identity, description, or value of the cash as secondary evidence (i.e., in lieu of the actual cash) in criminal trials and (2) defendants may attack the weight of the evidence, but not its admissibility, by showing that it is secondary.

The bill requires courts to admit a picture of a recovered stolen motor vehicle and a sworn affidavit attesting to its identification number as sufficient evidence of its identity.

EFFECTIVE DATE: October 1, 2001

DISPOSITION OF SEIZED CURRENCY

By law, law enforcement agencies may seize property, including cash, in connection with a criminal arrest or pursuant to a search warrant without an arrest. Under current law, they may deposit seized cash in a safe deposit box in a state bank. The bill eliminates this authority. It requires agencies to return or hold seized, stolen cash following the existing procedures governing seized, stolen property, and it creates a separate procedure for returning and holding seized cash that was not

stolen.

Stolen Cash

The bill requires the law enforcement agency that seized the property to notify the owner on a form prescribed by the Office of the Chief Court Administrator of the whereabouts of the cash and his right to claim it. The agency must do this within 10 days of the seizure or 10 days of learning the owner's identity. The notice must include a form for the owner to use to file a claim for the cash. The agency must forward the owner's claim to the clerk of the court for the geographical area where the crime allegedly took place. The clerk must notify the defendant of the claim.

The court must order the cash returned within 30 days of the filing, except that for good cause, it may order the cash held for a time it sets.

Seized Cash That Was Not Stolen

Under the bill, when law enforcement agencies seize cash that is not stolen, they have 10 days to notify the defendant (if the seizure was connected to a criminal arrest) or anyone with an interest in the premises where the currency was seized (if seizure was pursuant to a warrant without an arrest) of his right to a Superior Court disposition hearing on the cash. The party has 30 days to request the hearing.

After the hearing, the court may order that the law enforcement agency put the cash in a bank account in the state after taking reasonable measures to preserve it as evidence. If the defendant or person does not request a hearing, the law enforcement agency may deposit the cash in the account after taking measures to preserve it as evidence.

For good cause, the court may order seized cash retained for a period it sets.

Special Bank Account For Seized, Cash That Was Not Stolen

Under the bill, an account must be established in the agency's name specifically for holding seized cash that was not stolen. Money cannot

be removed from this account without a court order directed to the bank. Withdrawal must be in the form of a check to the law enforcement agency or to a payee named in the court order.

Banks do not have to separate cash deposited in the account. The bill specifies that it does not prohibit them from charging a fee for maintaining and administering the account and reviewing court orders.

COMMITTEE ACTION

Public Safety Committee

Joint Favorable Substitute Change of Reference

Yea 22 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0